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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

<p>Cecily Thornton-Stearns</p> <p>Plaintiff,</p> <p>v.</p> <p>Midland Credit Management, Inc.</p> <p>Defendant.</p>	<p><b>Case No: '13CV0461 W JMA</b></p> <p><b>Complaint For Damages</b></p> <p><b>Jury Trial Demanded</b></p>
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**INTRODUCTION**

- The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”). to eliminate abusive debt collection practices by debt collectors.

1 to insure that those debt collectors who refrain from using abusive debt  
2 collection practices are not competitively disadvantaged, and to promote  
3 consistent State action to protect consumers against debt collection abuses.

4 2. Cecily Thornton-Stearns, (Plaintiff), through Plaintiff's attorneys, brings this  
5 action to challenge the actions of Midland Credit Management, Inc.,  
6 ("Defendant"), with regard to attempts by Defendant to unlawfully and  
7 abusively collect a debt allegedly owed by Plaintiff, and this conduct caused  
8 Plaintiff damages.

9 3. Plaintiff makes these allegations on information and belief, with the exception  
10 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which  
11 Plaintiff alleges on personal knowledge.

12 4. While many violations are described below with specificity, this Complaint  
13 alleges violations of the statutes cited in their entirety.

14 5. Unless otherwise stated, all the conduct engaged in by Defendant took place  
15 in California.

16 6. Any violations by Defendant were knowing, willful, and intentional, and  
17 Defendant did not maintain procedures reasonably adapted to avoid any such  
18 violation.

#### 19 JURISDICTION AND VENUE

20 7. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331, 15 U.S.C. §  
21 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.

22 8. This action arises out of Defendant's violations of the Fair Debt Collection  
23 Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA").

24 9. Because Defendant does business within the State of California, personal  
25 jurisdiction is established.

26 10. Venue is proper pursuant to 28 U.S.C. § 1391.

27 11. At all times relevant, Defendant conducted business within the State of  
28 California.

**PARTIES**

12. Plaintiff is a natural person who resides in the City of San Diego, State of California.

13. Defendant is located in the City of San Diego, in the State of California.

14. Plaintiff is obligated or allegedly obligated to pay a debt, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

15. Defendant is a person who uses an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is therefore a debt collector as that phrase is defined by 15 U.S.C. § 1692a(6).

**FACTUAL ALLEGATIONS**

16. Sometime before February 29, 2012, Plaintiff is alleged to have incurred certain financial obligations.

17. These financial obligations were primarily for personal, family or household purposes and are therefore a “debt” as that term is defined by 15 U.S.C. §1692a(5).

18. Sometime thereafter, but before February 29, 2012, Plaintiff allegedly fell behind in the payments allegedly owed on the alleged debt. Plaintiff currently takes no position as to the validity of this alleged debt.

19. Subsequently, but before February 29, 2012, the alleged debt was assigned, placed, or otherwise transferred, to Defendant for collection.

20. Subsequently, but before February 29, 2012, Defendant mailed a dunning letter to Plaintiff. A few days later, Plaintiff received that letter.

21. This communication to Plaintiff was a “communication” as that term is defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent with 15 U.S.C. § 1692g(a).

22. On or about February 29, 2012, Plaintiff mailed a Cease & Desist letter to Defendant, notifying Defendant in writing that Plaintiff refused to pay Plaintiff's alleged debt, ending in account number 5541, and that Plaintiff requested that Defendant cease further communication with the Plaintiff in regards to Plaintiff's alleged debt, ending in account number 5541.

23. Despite Plaintiff's Cease & Desist letter to Defendant, Defendant continued to contact Plaintiff by mail.

24. Specifically, on or about September 21, 2012, Defendant contacted Plaintiff by mailed correspondence to collect the debt.

25. After Defendant was notified in writing that Plaintiff refused to pay the alleged debt or wished Miles to cease further communication with the consumer, Miles continued its communications with respect to such debt, for a purpose other than enumerated in 15 U.S.C. § 1692c(c). Consequently, Miles violated 15 U.S.C. § 1692c(c).

## CAUSES OF ACTION

### COUNT I

#### FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

##### 15 U.S.C. §§ 1692 ET SEQ.

26. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

27. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

28. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from Defendant.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and Plaintiff be awarded damages from Defendant, as follows:

- An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3).

29. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

**Hyde & Swigart**

Date: February 26, 2013

By: s/Robert L. Hyde  
Robert L. Hyde  
Attorneys for Plaintiff

**HYDE & SWIGART**  
San Diego, California